

NOV 21 2006

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Application No.: 10/701/039

Inventor(s): Peter Worthington Hamilton, et al.

Filed: November 4, 2003

Docket No.: 5922R2CCC

Confirmation No.: 6157

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1) Reply Brief Under 37 C.F.R. §41.41 (2 pages)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/701,039
Inventor(s) : Peter Worthington Hamilton, et al.
Filed : November 4, 2003
Art Unit : 1771
Examiner : Victor S. Chang
Docket No. : 5922R2CCC
Confirmation No. : 6157
Customer No. : 27752
Title : Improved Storage Wrap Material

REPLY BRIEF UNDER 37 C.F.R. §41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Reply Brief is filed in response to the Examiner's answer filed on September 22, 2006.

The Examiner's answer provides that the Wilbur reference anticipates a suitable range of protrusions in the active area or that such a range is a matter of obvious optimization of the teachings of Wilbur. The Examiner has provided that where the claimed and prior art products are shown to be identical or substantially identical in structure or composition or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established. No process of making is taught by the Wilbur reference. Therefore the Examiner must show that the structures of Wilbur and the claimed invention are substantially identical. To do this the Examiner points not the structure of the reference but instead to the subject matter of reference. The structures taught by Wilbur do not comprise the claimed limitation regarding the percentage surface area of the protrusions. Absent an explicit teaching of the element, the product of the reference may inherently possess the limitation if the

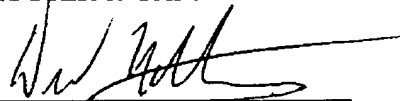
Appl. No. 10/701,039
Docket No. 5922R2CCC
Reply Brief dated November 22, 2006
Reply to Examiner's Answer mailed September 22, 2006
Customer No. 27752

limitation must necessarily be present in the products taught by the reference. The claimed limitation is not necessarily present in the products taught by the reference as indicated by the numerous embodiments illustrated in the figures which do not necessarily possess the claimed limitation. Appellant submits that expanding the scope of the Wilbur reference to include the claimed structure based upon the subject matter area of the reference is improper.

With regard to claim 10, the Examiner posits that it would be a simple matter to substitute cling wrap for paper to achieve the claimed invention. Appellant submits that there is no basis provided for the idea that cling wrap may successfully be coated with an adhesive and perforated in the manner of Wilbur to achieve a more conformable wrapper. Neither is there any motivation provided by Wilbur for doing so. The only motivation appears to be Appellant's claim which sets forth a limitation that is acknowledged by the Examiner to be lacking from the Wilbur reference.

Taking the above remarks in conjunction with the arguments set forth in Appellant's brief, the Board is requested to reverse all the rejections under 35 USC §§102, 103 currently facing the claims of the application.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY



Signature

Date: November 21, 2006
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